

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**March 29, 2002**

**DIVISION TWO**

Court convened at 9:00 A.M.

Present: Boren, P.J., Nott, J., Doi Todd, J., Ashmann-Gerst, J. and Joyce Hatter, Deputy Clerk.

Each of the following:

B148741 People v. Venegas  
B147830 People v. Martinez  
B148597 People v. Jointer  
B150638 Family Amusement v. Thunder

Argument waived, cause submitted.

B149488     Fuller  
                 v.  
                 City of Pomona

Merits:  
Argued by Joe Leyva for appellant and by A. John Olvera for respondent.  
Cause submitted.

B147942     Bishop  
                 v.  
                 Hug

Merits:  
Argued by Reggie Bishop for appellant and by Matthew D. Reinstein for respondent. Cause submitted.

DIVISION TWO (Continued)

B144777     Hart  
              v.  
              Gilbert, et al.

Merits:  
Argued by Robert W. Barnes for appellants and by Ralph Weiss for respondent. Cause submitted.

B147308     Courtright  
              v.  
              Sun Life Insurance Company

Merits:  
Argued by David Becht for appellant and by Hayward Kaiser for respondent. Cause submitted.

B149327     Siegel  
              v.  
              Lake

Merits:  
Argued by Hillel Chodos for appellant and by Mitchel Ezer for respondent. Cause submitted.

B147555     Soto  
              v.  
              Granada Hills Community Hospital

Merits:  
Argued by Peter Brown for appellant and by Amy Lyons for respondent. Cause submitted.

DIVISION TWO (Continued)

B146844     Debbs  
                 v.  
                 Department of Veterans Affairs

Merits:  
Argued by Richard Fine for appellant and by deputies attorney general  
Domini Pham and Michael B. O'Harra for respondent. Cause submitted.

Court adjourned.

B153708     Resnik  
                 v.  
                 Resnik

Filed order granting motion to dismiss appeal. Appeal (notice of appeal  
filed October 11, 2001) dismissed.

DIVISION THREE

B135836     Super Saver, Inc.                     (Not for Publication)  
                 v.  
                 Eastgate Associates

The judgment is affirmed in part and reversed in part. Each party to bear its  
own costs on appeal.

Aldrich, J.

We concur: Klein, P.J.  
                  Kitching, J.

DIVISION THREE (Continued)

B134748      Methodist Hospital of                      (Not for Publication)  
Southern California, et al

v.  
Superior Court, Los Angeles County  
(Ruyer, r.p.i.)

The petition is granted. Let a writ of mandate issue directing the trial court to vacate its order denying the motion for summary adjudication as to Methodist Hospital of Southern California and to enter a new and different order granting the motion for summary adjudication as to Methodist Hospital of Southern California and dismissing the first, third, fourth, and fifth causes of action as to Methodist Hospital of Southern California. The alternative writ issued February 7, 2001, is hereby discharged. Costs on appeal are awarded to Methodist Hospital of Southern California.

Kitching, J.

We concur:    Croskey, Acting P.J.  
Aldrich, J.

B142999      Schifando                                      (Certified for Publication)

v.  
City of Los Angeles

The judgment is affirmed. The City shall recover costs on appeal.

Kitching, J.

We concur:    Croskey, Acting P.J.  
Aldrich, J.

DIVISION THREE (Continued)

B144445      Riggins, III      (Not for Publication)

v.

City of Pasadena Fire Department, et al.

The order and judgment granting defendants' motion for summary judgment is affirmed in part and reversed in part. We affirm the summary judgment as to plaintiff's FEHA causes of action for discrimination and retaliation.

We reverse the summary judgment as to plaintiff's FEHA cause of action for harassment. On remand, because we find plaintiff failed to exhaust his administrative remedies for alleged acts of harassment purportedly occurring before June 10, 1995 and the continuing violations doctrine will not make actionable otherwise time-barred claims, plaintiff is barred from seeking recovery for alleged acts of misconduct occurring prior to the commencement of the statutory period of limitations. However, because the two acts of alleged harassment following plaintiff's filing of his DFEH (the allegedly underserved performance evaluation by Chief Nestor and the June 16, 1998, administrative leave incident), are "like or reasonably related" to the alleged misconduct described in plaintiff's DFEH charge, plaintiff may seek recovery for these alleged acts in this lawsuit.

We also reverse the summary judgment as to plaintiff's three common law causes of action. On remand, because we find plaintiff failed to exhaust his administrative remedies for alleged acts of misconduct purportedly occurring before November 1994, and the continuing violations doctrine will not make actionable otherwise time barred claims, plaintiff is barred from seeking recovery for alleged acts of misconduct occurring prior to the commencement of the statutory period of limitations. However, because the three acts of alleged harassment following plaintiff's filing of his administrative claim pursuant to the Tort Claims Act, (the July 20, 1997 termination as director of the Auxiliary Program, the allegedly underserved performance evaluation by Chief Nestor and the June 16, 1998, administrative leave incident) are "fairly reflected" in plaintiff's administrative claim, plaintiff may seek recovery for these alleged acts in this lawsuit. Costs on appeal to be borne equally by the parties.

Kitching, J.

We concur:    Croskey, Acting P.J.  
                     Aldrich, J.

DIVISION FOUR

B132661      People      (Not for Publication)  
v.  
Anthony Stacy

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Epstein, J.

B147373      People                                  (Not for Publication)  
v.  
Roy Tony Torres

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Epstein, J.

## DIVISION FIVE

B110122	People v. Lac Vinh Du et al.	(Not for Publication)
B120896	In re Lac Vinh Du on Habeas Corpus	

The judgment is conviction is reversed and this matter is ordered dismissed.  
Petition for habeas corpus is denied as moot.

Armstrong, J.

I concur: Mosk, J.  
I dissent: Turner, P.J. (Opinion)

## DIVISION FIVE (Continued)

B139936 Claire Ragge  
v.  
Law Offices of Hadsell & Stormer et al.  
  
Filed order denying petition for rehearing.

DIVISION SIX

B152589      Burboa      (Not for Publication)  
v.  
Ventura County

The judgment is affirmed. Costs are awarded to Burboa.

Coffee, J.

We concur:   Gilbert, P.J.  
                     Perren, J.

B149910      People                                 (Not for Publication)  
v.  
Carmichael

The judgment of conviction is affirmed. The case is remanded for resentencing.

Coffee, J.

We concur:    Yegan, Acting P.J.  
Perren, J.

## DIVISION SIX (Continued)

B149823 People (Not for Publication)  
v.  
Jose R.

Accordingly, we reverse the dispositional order committing appellant to CYA and remand this case to juvenile court with instructions to correct the jurisdictional order of November 22, 2000, to reflect that appellant is detained on a misdemeanor violation of Penal Code section 12031, subdivision (a)(1), and to hold a new dispositional hearing in light of the reduction in the charge.

Coffee, J.

We concur:    Gilbert, P.J.  
                         Yegan, J.

B150841 People  
v.  
Castillo

Filed order denying petition for rehearing.

## DIVISION SEVEN

B151407 People (Not for Publication)  
v.  
Corian A. Ware

The judgment is modified to assess Ware with a restitution fine of \$200 and a suspended parole restitution fine of \$200. As modified, the judgment is affirmed.

Perluss, J.

We concur: Johnson, Acting P.J.  
Woods, J.



DIVISION SEVEN (Continued)

B152259      Antonio Mandujano et al.                      (Not for Publication)  
                 v.  
                 Minnesota Mining & Manufacturing Co., et al.

The judgment is reversed. The case is remanded for further proceedings not inconsistent with this opinion. Mandujano and Villegas are to recover costs on appeal.

Perluss, J.

I concur:      Johnson, J.  
I dissent:      Lillie, P.J. (Opinion)

DIVISION EIGHT

B141511      People    (Not for Publication)  
                 v.  
                 Shishalovsky et al.

The judgment is affirmed.

Cooper, P.J.

We concur:      Rubin, J.  
                 Boland, J.